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By

(1954) Department.

Ms SERIES.

G.O. No. 1109

Dated 27-11-48

[Despatch Abstract.]

New Services - National Highways Works - Question.
Whether works should be treated as services - papers
Recorded.

Nilesh

Extract of notes from the file relating to contracts -
Highways Department - Conphalt surfacing to N.H.No.45,
M.7/5 to 16/2 - Acceptance of tenders.

Finance (Expr.C)

Please examine separately whether expenditure on National Highways should not be treated as on a 'New Service' though the expenditure is recoverable from the Government of India and send it through B.G. This is urgent

G.K.G.

19-9-48

(True copy)

Finance (B.G.) Deptt.

Please see the extract of note above.

The question for consideration is whether the 'New Service' procedure should be applied to works relating to National highways. It was previously considered that as the entire expenditure is recoverable from the Govt. of India the expenditure on such works need not be treated as on a 'New Service' with reference to Note (5) under section B.V. of the 'New Service' pamphlet. The A.G. does not seem to have raised any objection to the procedure followed till now.

Under the National Highways scheme, the Govt. of India have stipulated (i) that no National Highway work should be undertaken without the prior approval of the Govt. of India, and (ii) that detailed estimate for each National highway work should be submitted to them for technical approval and financial sanction. The expenditure on these works is incurred in the first instance from the funds provided in the Provincial Budget and it is recovered in full from the Govt. of India later. The Provincial Govt. really act as agents on the Central Govt. for purposes of execution of their works in this matter.

In the case of works which are financed from the Central Road Fund and the expenditure on which is met in full from contributions from the fund, the P.A. Committee has observed that the ruling that a civil works estimated to cost over Rs.30,000 should be treated as 'New Services' applies also to any work costing over Rs.30,000 which is financed from the Central Road Fund. The works to be financed from the Central Road Fund are first selected by the C.E. in consultation with the local authorities. He then places a list of selected works before the Board of Communications for advice. After the works are approved by the Board, the C.E. sends up the lists to the Govt. The Govt. then consult the Railway Administration concerned and thereafter address the Govt. of India for sanction to the debit of the cost of the works to the Central Road Fund. The Government of India consider the proposals in consultation with the Standing Committee on roads and accord the necessary sanction. On receipt of such sanction, the authorities concerned are authorised to arrange to start the works as early as possible after getting the detailed plans and estimates sanctioned by the competent authorities. They also required at the same time to furnish to this Govt. particulars of the number, date, title and amounts of sanctioned estimates for the work for communication to the Govt. of India. A debit to the Central Road Fund of the expenditure on the works is permitted only after the Govt. of India pass on to audit the particulars of sanctioned estimate and intimate the fact to this Govt. This is the procedure ordinarily followed. In

P.T.O.

EXceptional cases where the works are of military importance, this Govt. authorise the execution of the works in anticipation of the approval of the Govt. of India.

It will be seen from paragraph 2 above that the financial sanction and technical approval to all the works under the National Highways Scheme are given by the Govt. of India, whereas in the case of Central Road Fund works, the authorities of the Provincial Govt. sanction the estimates. It does not therefore appear necessary to follow the 'New Service' procedure in respect of works relating to the National Highways scheme as in the case of works relating to C.R. Fund i.e. the ruling given by this Dept. in February 1947 [on pp.5-6 N.F. of G.O.572 P.W. dated 3-3-1947 may stand.

For orders.

National Highways are now the sole concern of the Central Govt. and this Govt. are in effect only their agents in the execution of such works. In the case of central Road Devt. Fund Works, the Govt. of India give a full subvention, but the works are Provincial. The previous decision that the expre. relating to the only latter class of works should be treated as on a 'new Service' may stand.

There was a long drawn controversy as to whether the "New Service" procedure would apply to a work financed from the Central Road Fund. The L.A. Dept. contended that it would not apply, and one of the reasons advanced by them was that the Provincial Revenues were not in any way affected, as the funds required came from the Central Road Fund. In 1942-3 the P.A. Committee gave the ruling that "the rule in regard to New Services as for Provincial expenditure should be applied also to expenditure which was to be met from Provincial Revenues and then recovered". In the light of that ruling this department did not agree with the L.A. Dept. and referred the matter to the Accountant-General. He said:-

"The whole question depends on whether the Central Govt. or the Provincial Govt. retains full control over the expenditure with reference to the ~~main~~ principle, enunciated in article 43 of the Audit Code. In the case under consideration, subject, of course, to the specific approval of the schemes by the Central Govt., the detailed control over the expenditure in each of the schemes rests in the Provincial Govt. As a corollary to this, the expenditure has to be accounted for under the appropriate service head and the estimates for the same submitted to the vote of the Legislature. The fact that an equivalent amount is transferred to the corresponding revenue head is irrevelant.

A double vote here is inevitable, one by the centre to cover the grant and the second by the Provincial Legislature to cover expenditure on the actual scheme. When once the expenditure is included in the Budget, the normal procedure of obtaining additional funds, whenever necessary by presenting supplementary estimates (including token sums for 'new services') had to be followed"

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In the circumstances, there seems to be no doubt regarding the applicability of the "New Service" rules to these cases.

The P.A. Committee ² before which the matter was placed expressed the following view:-

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"Our view is that though funds for the Central Road Fund works are voted by the Central Legislature, it is necessary that there should be a second vote by the Provincial Legislature in order to enable the Members of the Provincial Legislature to express their views and also for the reason that the expenditure is debited to Provincial Accounts in the first instance and subsequently adjusted by debit against Central accounts.xxx

We therefore recommend that the expenditure on works financed from Central Road Fund should be treated as a 'New Service'.

See item(2) under section(r) at p.19 the New Service Pamphlet. 2. - The position then is that in consideration the question of the applicability of the "New Service" procedure, the deciding factor is whether the expenditure is debited to the Provincial Revenues in the first instance. The fact that the expenditure is completely recovered from the Central funds or other authorities makes no difference. The preparations of electoral rolls by the Government on behalf of local bodies though the cost was fully recoverable from local bodies was treated as a 'New Service'.

3. The expenditure on National Highways is debited to the Provincial Revenues in the first instance as in the case of Central Road Fund works. In either case, the approval of the Government of India for the work is obtained. The fact that in the case of National Highways the Govt. of India themselves sanction the plans and estimates but not in the case of Central Road Fund works or the fact that the recoveries from the Central funds are treated as abatement of expenditure in the case of National Highways and as revenue in the other case will not affect the issue. It is true that the A.G. has not so far ~~raised~~ the question of applying the 'New Service' procedure to expenditure on National Highways, but the probability is that he has not given consideration to this matter. In the light of the discussions leading to the ruling about the Central Road Fund works, there seems to be little doubt that the 'new service' procedure should be applied to expenditure on National Highways also, though the expenditure is recovered from the Govt. of India.

4. At the same time it should be mentioned that Note (5) on p.20 of the New Service pamphlet provides:

"This ruling (the ruling that works costing over Rs.30,000 should be treated as New Services) does not apply to works the cost of which inclusive of centage charges at the prescribed rates, is recovered in full. But if a portion of the cost is borne by Govt. owing to the contribution being less than the actual cost or owing to the reduction or waiver of centage charges, the ruling will apply, if the work is estimated to cost over Rs.30,000 irrespective of the actual share of the Government".

The above 'Note was inserted with reference to the following two works which in fact were treated as 'New Services' ~~does-not-apply-to-works-the-cost-of-which-does~~ in 1933-4 and 1934-5 and where the Govt. waived centage charges in full or in part:-

(a) Construction of His Royal Highness the Prince of Wales Children Hospital, Madras.

(The work was originally treated as a non-Govt. work and the whole cost of construction, including centage charges was intended to ~~xxx~~ be met from the Prince of Wales Hospital Fund Committee. It was subsequently decided to treat it as Govt. work and to restrict the contributions to the actual cost of the work.

(b) Payment of centage charges on the execution of the scheme for the irrigation of the lands of the inamdar of Kallpatnam village, Godavari Western Delta.

(The intention originally was to recover the entire centage charges (Rs.20,000) from the inamdar, but subsequently the Govt. decided to recover only Rs.4,000 being the actual cost of establishment employed).

NOTE (5) at p.20 of the 'New Services' pamphlet is really inconsistent with the principles underlying the ruling about Central Road Fund Works. That 'Note' may well be deleted.

The A.G. may be consulted, if necessary.

In regard to certain roads taken over by the Public Works Department the expenditure on which ultimately recovered from the Defence Department, the Accountant-General explained as follows the principle, which (according to him) should be the criterion for deciding whether the expenditure should be treated as on a 'new Service':-

"The underlying principle is one of control rather than cost. Hence the test for inclusion or exclusion from the estimates is whether full control over the expenditure is retained by the Government of Madras or by outside authorities and not whether a balance is left outstanding at the end of the year. The same test should apply to the question of any 'New Service' involved in such cases; as the Legislature has to be apprised of all responsibilities assumed by the Government on behalf of other Governments, Departments etc. it has to be specially apprised of any responsibilities assumed after it had passed the Budget Estimates. Accordingly, if in the case of roads taken over by the Public Works Dept. the expenditure on which is ultimately recovered from the Defence Dept., full control over the details of items of expenditure vests in the Provincial Govt. and these items do not fall within the scope of the original demands, it would appear necessary to treat them as a 'New Service' and include them in the Schedule of supplementary Estimates".

It would appear from the above extract that the main criterion suggested by the Accountant General for classifying a new scheme as a 'New Service' is that the Madras Govt. should have full control and responsibility in respect of the scheme. In the case of 'National Highways' it is the Central Government that have responsibility and control and not the Madras Govt. Administrative, technical and financial sanction in respect of the works are accorded by the Govt. of India and they have accepted entire financial liability for the works. The responsibility is not only in respect of expenditure on original works such as construction, but also for maintenance - see paragraph 4 and 5 on page 5 of papers at (Y). The Govt of India control and regulate the expenditure in respect of the works. It will be seen from paragraph 12 of the note on page 13 of (Y) that the Govt. of India indicated a slow down policy in respect of expenditure on National Highways in 1947-48 and the programme of expenditure for that year was accordingly reduced by the Chief Engineer for Highways. It cannot therefore be said that this Government have full control over the expenditure in respect of these works. The criterion suggested by the Accountant-General in the extract on page 6 above is not therefore satisfied in this case. The case of the 'National Highways' is not on all fours with that of road works financed from the Central Road Fund or of other works; the cost of the latter works is recovered from another Govt. or a local authority etc., but full control in respect of the works vests in this Govt. In the circumstances, there seems to be no necessity to treat the expenditure relating to 'National Highways' as on a 'New Service'. In any case, there seems to be no

no need to consider the question, unless the Accountant General raises a doubt in the matter and asks that the question should be considered by the Government and referred to the Public Accounts Committee.

Sd/.A.D.S.

I agree with the A.D.S. that we need not pursue the matter for the present. Prima facie we are more in the nature of 'agents' so far as National Highways are concerned.

T.N.S.R.

Secy.

26.11.48.

The papers may now be recorded.

G.O.MS.No.1109 Finance dated 27-11-1948.

Abstract

New

Services-National
Highways works -
Question whether
such works should
be treated as New
Services - Papers
Recorded.

T.N.S.R.

Asst Secy.

27.11.48.

RCB/

[Signature]
Superintendent,
Madras Record Office.

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